

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
(317) 232-9855

FISCAL IMPACT STATEMENT

LS 7580

BILL NUMBER: SB 373

DATE PREPARED: Jan 5, 1999

BILL AMENDED:

SUBJECT: Duty to warn about AIDS and related matters.

FISCAL ANALYST: Mark Bucherl

PHONE NUMBER: 232-9869

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill defines "carrier" and "risk counseling". It relocates AIDS crimes from the Indiana Code chapter concerning homicide to the Indiana Code title concerning health. It makes the reckless, knowing, or intentional failure to warn a sexual or needle sharing partner about a person's status as an AIDS, HIV, or Hepatitis B carrier: (1) a Class B misdemeanor for first time offenders; and (2) a Class D felony when the carrier is a repeat offender. It provides standards to govern when a person has a duty to warn. This bill also makes other related changes.

Effective Date: July 1, 1999.

Explanation of State Expenditures: Regarding the prosecution of HIV/AIDS and Hepatitis B transmission-related crimes, this bill: (1) increases evidentiary requirements for prosecuting Class B misdemeanors; (2) adds additional stipulations required to charge a D felony (it also repeals a provision which requires a separate offense for each day a violation continues); and (3) narrows the definition of a person who may be charged with a Class C or A felony for transmission of HIV. Fewer convictions and imprisonments for B misdemeanors and A, C and D felonies may result. The following felonies and average terms as described in this bill. The period of incarceration depends upon mitigating and aggravating circumstances.

<u>Felony</u>	<u>Prison Term</u>	<u>Avg Time Served</u>
Class A	20 to 50 years	7 yrs., 4 mos.
Class C	2 to 8 years	1 yr., 7 mos.
Class D	6 mos. to 3 years	8.5 mos.

The average expenditure to house an adult offender was \$20,500 in FY 97. Individual facility expenditures range from \$11,000 to \$27,000. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost per offender for medical care, food, and clothing is approximately \$1,825 annually or \$5 daily.

Explanation of State Revenues: Less revenue to the Common School Fund could be collected if: (1) fewer misdemeanor convictions occur; or (2) smaller criminal fines are assessed by the sentencing court. The maximum fines for Class B misdemeanors is \$1,000, while the maximum fine for all felonies is \$10,000. Court fees for misdemeanors and felonies are \$120.

Explanation of Local Expenditures: Fewer felony cases would mean fewer offenders in county jails awaiting trial and post-conviction transfer to DOC. The maximum term of imprisonment for any Class B misdemeanor is up to 180 days. The average daily cost to incarcerate a prisoner in a county jail is roughly \$44.

Explanation of Local Revenues: Court fees for misdemeanors and felonies are \$120.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts; local law enforcement agencies.

Information Sources: Indiana Sheriffs Association; Department of Correction.